



#10 Election
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10/30/02

Docket: 14036

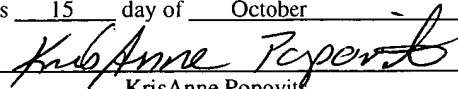
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Michael R. Oldenburg	
Appln. No.:	09/855,001	
Filing Date:	May 14, 2001	Examiner: V. Patel
Title:	RETROFITTABLE SEVERE DUTY SEAL FOR A SHAFT	Group Art Unit: 3676

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this document is being sent via First Class U.S. mail addressed to: Commissioner for Patents, Washington, D.C. 20231 on this 15 day of October, 2002.


KrisAnne Popovits

Dear Sir:

In response to the Office Action dated September 6, 2002, in which the Examiner identified nine (9) species, Applicant elects, with traverse, Species VII: Figure 7, which corresponds to and includes claims 37-39 and 42-63.

REMARKS

Claims 37-39, 42-48, 62 and 63 are generic.

Claims 49-61 are drawn specifically to the elected species.

Applicant respectfully asserts that the requirement for election of species is improper in the present application. MPEP § 803 addresses the situations in which a requirement for an election of species is proper. That section provides that "[i]f the search and examination of the entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." MPEP § 803 further provides that a serious burden "may be prima facie shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search."

Under these criteria, the examiner has not made a *prima facie* showing of serious burden on the examiner without an election. The pending application discloses a retrofittable severe duty seal for a shaft. Each of the species identified by the Examiner is classified under Class

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GROUP 3600